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2 Veterans Testify on Enemy for CBS

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Two combat veterans of the Vietnam War took the stand yesterday at Gen. William C. Westmoreland's libel trial against CBS and, wielding a mock grenade and tripwire, demonstrated how the Vietcong's self-defense forces rigged booby traps that, they said, caused American casualties.

The veterans — a twice-wounded private who served as an infantryman and a captain who graduated from West Point in 1963 when General Westmoreland was superintendent there — were called as witnesses by CBS to counter the general's testimony that the self-defense forces were "basically civilians" who posed no offensive threat.

Both veterans said in Federal District Court in Manhattan that the part-time, hamlet-based forces inflicted numerous injuries, some fatal.

"Those people were fighting us; we were trying to fight them," said Capt. Howard Embree, now a professor of English at Mississippi State University. "That's what we understood our job to be, and I'm very surprised to discover that General Westmoreland did not know that's what we were doing."

The reference to General Westmoreland was stricken from the record by Judge Pierre N. Leval.

'Pineapple Style' Grenade

During a break between Captain Embree's testimony and that of Pfc. Daniel A. Friedman, the mock "pineapple style" fragmentation grenade rested on the edge of Judge Leval's bench.

Eyeing it somewhat apprehensively, the judge turned to David Boies, the principal lawyer for CBS.

"Mr. Boies," he said as courtroom spectators broke into laughter, "you want to take back your grenade?"

The role of the self-defense forces in the war has been an important issue in the 17-week-old trial, and the subject of much conflicting testimony.

The 1982 documentary that prompted General Westmoreland's suit — "The Uncounted Enemy: A Vietnam Deception" — charged that, for political and public-relations reasons, the general imposed an "arbitrary ceiling" of 300,000 on reports of enemy size, mainly by removing the self-defense forces from the official listing of enemy strength known as the order of battle.

That action in late 1967, the program said, was part of a broader "conspiracy" by the general's command to show progress in the war by understating the size and nature of the enemy.

General Westmoreland, who commanded United States forces in Vietnam from 1964 to 1968, testified that he never set such a ceiling and that he deleted the self-defense forces because he believed they were insignificant militarily and could not be counted accurately and because their inclusion in the order of battle at a high figure would mislead Washington and the press. The self-defense forces had been newly estimated in the spring of 1967 at 120,000 — an increase, on paper if not in the field, of 50,000.

Captain Embree served in Vietnam from May 1966 to May 1967, and was an adviser to a South Vietnamese military unit in northern Quang Tri province.

Under questioning by Randy Mastro, a lawyer for CBS, Captain Embree said he had received a Bronze Star "and a minor decoration for what the Army was pleased to call 'valor,' but which I didn't believe in, so I never wore."

Captain Embree said that, in Vietnam, he saw combat "almost continuously. We were in the field, passing through villages, staying overnight, going in another direction, often back the way we had come."

He said he was able to distinguish between the self-defense forces and the "guerrillas" — who remained in the order of battle — because the latter were more mobile, more active and better organized. Both groups "looked like civilians," he said, but the self-defense forces were responsible for "mining, booby-trapping and sniping in the proximity" of their villages.

Q. How difficult was it to construct a tripwire grenade?

A. Extremely simple. I could teach anyone in this room to do it in the next 10 minutes.

Q. What would you need to do it?

A. Piece of wire and a grenade.

Whereupon, Mr. Mastro produced the elements. "I just happen to have those things here," he said.

Hooking the wire on the microphone of the witness stand, Captain Embree proceeded to give a five-minute demonstration, showing how the grenade would be hidden in the dust or secured

by bamboo stakes and the wire would be strung across a path or a paddy dike, "anywhere it's predictable" that American or allied soldiers would pass.

At one stage, the witness observed that the wire provided to him "looks like picture wire, which the VC did not have, but they did have fishing line or lots of very thin metallic wire, which was very difficult to see." At another point, Captain Embree complained that "the spring has been removed from this grenade, unfortunately."

"Not so unfortunate, Mr. Embree," Mr. Mastro interjected, as the metal spoon covering the grenade fell to the floor, echoing through the courtroom.

"The first soldier coming by would, of course, pull the pin out, and the spoon would fly off," the witness explained. "The grenade would catch him from behind and the next guy, even if he were spaced out properly, would catch it in the front. So, typically, a grenade might easily get two men and wound them severely or kill them."

Captain Embree estimated that half the casualties he saw resulted from such booby traps and mines.

On cross-examination, David Dorson, a lawyer for General Westmoreland, attempted to show that Captain Embree was not responsible for overall strength calculations in his province and that he may have attributed activities to the self-defense forces actually carried out by guerrillas. But the witness said there was "an irreducible level of violence" in some villages that "did not vary with the presence of outside or mobile forces."

Captain Embree said he agreed to testify after talking to Samuel A. Adams, an individual defendant in this case, and to Col. Gains Hawkins, a former Army intelligence colonel who appeared on the CBS broadcast.

Private Friedman, now a veterans' counselor in Brooklyn, came to testify after learning that lawyers for CBS wanted to interview Vietnam veterans.

The former private, who was stationed in Vietnam for most of 1968, said he "saw too many of my buddies go down not to be concerned" about mines and booby traps. He said that, after firefights, he discovered that many of the enemy dead were the very same people who had earlier been "waving at" American soldiers and taking C-rations from them. Often, he said, those people used the food cans for explosive devices.

Continued

On cross-examination, Mr. Dorsen stressed that Private Friedman, who rose to the rank of Specialist 4, was not an intelligence officer.

In other testimony, Joseph Fackovec, the film editor for the last two segments of the five-act documentary, said he was unaware of material having been "distorted."

Mr. Fackovec said it was "not the job" of someone in his position to read the full transcripts of interviews to see if the material being excerpted was in context. Mr. Fackovec also said "it was sort of common knowledge" that Ira Klein, the principal film editor for the documentary, who testified for General Westmoreland, did not "get along too well" with George Crile. Mr. Crile was the producer of the documentary and is now a defendant.